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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

CUENOUD ET AL.

APPLICATION NO: 10/696,488

FILED: OCTOBER 29, 2003

FOR: 2'-SUBSTITUTED NUCLEOSIDES AND OLIGONUCLEOTIDE
DERIVATIVES**MS: Amendment**Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In response to the Restriction Requirement dated October 3, 2007, Applicant hereby elects inventive Group I, covering Claims 1-39, 48-51 and 54-58, drawn to an oligonucleotide derivative.

Applicant further elects for prosecution a single molecular composition of the radical "A", cited in claims 1, 2, 10, 24, 33 and 56, wherein radical A is specifically:

$$-\text{C}(\text{H})(\text{R}_3)-\text{N}(\text{R}_1)(\text{R}_2),$$

Applicant asserts that all species of the elected invention are entitled to be granted under a single patent. However, in order to facilitate examination, and as requested by Examiner, Applicant elects the following species for initial examination:

- i) $\text{R}_1 = \text{H}$, $\text{R}_2 = \text{H}$,
- ii) $\text{R}_3 = \text{H}$,
- iii) $\text{R}_4 = \text{not elected because } n = 0$,

- iv) Because R₁ and R₂ are independently H, no species election is required for R₅, R₆, Formula II or Formula III,
- v) No election is made for Formula IVa, Formula IVb, because these radicals are not comprised in the elected inventive Group I.
- viii) Because claim 40 is not part of the elected inventive Group I, no species election is made for Formula B or Formula C,
- x) The species election for the internucleosidic bridging moiety is those species specifically recited in claim 16, with the phosphodiester taking precedence,
- xii) No species election is made for R₈ in claim 15, because R₈ is not included in an elected species,
- xiii) The species election for Va and Wa in claim 39 is both independently trityl.

Any change to inventorship required based on the elected invention will be communicated to the Examiner, as appropriate.

By separate paper, a petition to extend the period of response by 5 months, to April 3, 2008, is submitted.

For any fees required under 37 CFR §1.16 or §1.17, Commissioner is authorized to charge, and to credit any overpayment, to Deposit Account No. 50-4409 in the name of Novartis.

Respectfully submitted,

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